

Message Text

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INFO AMCONSUL LENINGRAD

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E.O. 11652: N/A
TAGS: AFSP ABLD OGEN UR US
SUBJECT: MOSCOW SHORT-TERM LEASES

REF: (A) MOSCOW 11888, (B) MOSCOW 8138 (C) STATE 115581

1. SUMMARY. EMBOFFS BEGAN DISCUSSIONS ON FOUR UNRESOLVED ISSUED CONCERNING NEW LEASES FOR APARTMENTS WITH UPDK OFFICIALS IVANUSHKIN AND DOROFEYER AUGUST 25. CONSIDERABLE PROGRESS MADE TOWARD REACHING AGREEMENT ON MAINTENANCE, TRANSIENT QUARTERS, AND INSPECTION QUESTIONS WITH UPDK PREPARED TO ACCEPT CURRENT PRACTICE THRU EXCHANGE OF LETTERS. UPDK REFUSED TO YIELD ON DOUBLE REGISTRATION ISSUE, INSISTING SOVIET LAW REQUIRED REGISTRATION OF ALL FOREIGNERS AND CITING ARTICLE 41 OF VIENNA CONVENTION IN SUPPORT. EMBOFFS STATED US COULD NOT ACCEPT SOVIET POSITION WHICH VIOLATED ARTCILE 10 OF CONVENTION. UPDK AGREED TO DEFER FURTHER DISCUSSIONS ON THIS QUESTION. END SUMMARY.

2. ADMINISTRATIVE COUNSELOR AND EMBOFF IN AUGUST 25 CALL ON ALEXANDER IVANUSHKIN CHIEF, UPDK HOUSING DEPT, AND M.P. DOROFEYER, UPDK LEGAL DEPT, BEGAN TALKS ON THE FOUR MAJOR LEASE ISSUES DISCUSSED BY THE AMBASSADOR AND KUZNETSOV, DIRECTOR UPDK, ON AUGUST 16 (REFTEL A).

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3. IN GENERAL THE UPDK SHOWED A WILLINGNESS TO COMPROMISE ON THREE OF THE FOUR OUTSTANDING ISSUES. HOWEVER, RATHER THAN TO CREATE DIFFICULTIES IN THEIR NEGOTIATIONS WITH OTHER EMBASSIES BY CHANGING THE STANDARD UPDK LEASE FORM, IVANUSHKIN PROPOSED AN EXCHANGE OF LETTERS OR NOTES WHICH WOULD MODIFY AND CLARIFY THE UNACCEPTABLE LEASE CONDITIONS

TO BOTH SIDES' SATISFACTION.

4. MAINTENANCE AND REFINISHING - UPDK EXPRESSED NO OBJECTION TO THE EMBASSY OR ITS CONTRACTORS CONTINUING TO PERFORM MAINTENANCE AND REFINISHING WORK IN ITS APARTMENTS. IN EFFECT THIS WOULD CONTINUE THE STATUS QUO AND IS ACCEPTABLE TO THE EMBASSY.

5. TRANSIENT APARTMENTS- THE NEW LEASE PROHIBITS THE USE OF APARTMENTS AS "A HOTEL." UPDK INDICATED IT HAD NO PROBLEMS OR DIFFICULTIES WITH THE AMERICAN EMBASSY IN THIS REGARD, BUT SOME EMBASSIES WERE RENTING APARTMENTS TO STUDENTS, TOURISTS AND BUSINESSMEN. EMBOFFS INDICATED THAT OUR TRANSIENT APARTMENTS WOULD ONLY BE USED BY USG EMPLOYEES, THEIR FAMILIES, AND US CONTRACTORS AND AGENTS. UPDK STATED THAT THIS WAS AN ACCEPTABLE USE OF APARTMENTS.

6. INSPECTION OF APARTMENTS - EMBOFFS POINTED OUT DEPT'S OBJECTIONS TO INSPECTIONS UNDER ARTICLE 30 OF THE VIENNA CONVENTION. UPDK INSISTED IT ONLY WISHED TO CHECK PERIODICALLY THE SAFETY OF GAS, WATER AND POWER SYSTEMS. UPDK WAS PREPARED TO MAKE SUCH INSPECTIONS ONLY WITH PRIOR APPROVAL OF THE EMBASSY.

7. THE EMBASSY REQUESTS THE DEPT'S VIEWS AND GUIDANCE AS TO WHETHER THE OBJECTIONABLE FEATURES LISTED ABOVE LIMITED OFFICIAL USE

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IN THE UPDK LEASE CAN BE OVERCOME BY AN EXCHANGE OF NOTES OR LETTERS WITH MODIFYING AND CLARIFYING LANGUAGE. IF THIS SOVIET FACE-SAVING TACTIC IS ACCEPTABLE TO THE DEPT, THE EMBASSY WILL PROVIDE DRAFT LANGUAGE.

8. DOUBLE REGISTRATION - BOTH SIDES EXPLAINED THEIR POSITIONS IN STRONG TERMS. ADMINISTRATIVE COUNSELOR POINTED OUT THAT THE US COULD NOT ACCEPT SYSTEM OF DOUBLE REGISTRATION AS A MATTER OF PRINCIPLE AND EXPLAINED THAT TO DO SO WOULD BE A VIOLATION OF ARTICLE 10 OF THE VIENNA CONVENTION WHICH SPECIFICALLY REQUIRES EMBASSIES TO INFORM THE FOREIGN MINISTRY OF INFORMATION RELATING TO RESIDENCE, ARRIVAL, DEPARTURE, ETC., OF EMBASSY STAFF. DOROFEYER ARGUED THAT SOVIET LAW, CITING THE REGULATIONS FOR THE RESIDENCE OF FOREIGNERS AND PERSONS WITHOUT CITIZENSHIP IN THE USSR OF MARCH 1962 (PRAVILA PROZHBANIYA INOSTRANTSEV I LITS BEZ GRAZHDANSTVA V SSSR), REQUIRED THAT ALL FOREIGNERS NOT RESIDE IN AN EMBASSY OR THE RESIDENCE OF AN AMBASSADOR REGISTER WITH THE MINISTRY OF INTERIOR. UPDK, HE ADDED, PROVIDES THIS SERVICE FOR FOREIGN DIPLOMATS FREE OF CHARGE. DOROFEYER ASSERTED THAT THE VIENNA CONVENTION SUPPORTS THE SOVIET POSITION AND HE REFERRED TO ARTICLE

41 WHICH STATES THAT QUOTE IT IS THE DUTY OF ALL PRSONS
ENJOYING SUCH PRIVILEGES AND IMMUNITIES TO RESPECT THE
LAWS AND REGULATIONS OF THE RECEIVING STATE UNQUOTE.
ADMIN COUNS ASSERTED THAT THE SOVIET POSITION WAS UNACCEPT-
ABLE, POINTING OUT THAT IN INTERNATIONAL LAW AND PRACTICE
INTERNATIONAL AGREEMENTS TAKE PRECEDENCE OVER LOCAL
REGULATIONS AND THAT THE SOVIET INTERPRETATION WAS NOT
COMPATIBLE WITH SPECIFIC AND CLEAR PROVISIONS OF
ARTICLE 10 OF THE VIENNA CONVENTION. WE CONSIDERED, HE
CONTINUED, SOVIET POSITION AN INFRINGEMENT OF OUR RIGHTS
UNDER THIS CONVENTION, AND WE VIEW THE SOVIET INTERPRETATION
AS A SERIOUS PROBLEM. DOROFEYER REITERATED VIEW THAT
ARTICLE 41 OF VIENNA CONVENTION TOOK PRECEDENCE, BUT HE
AGREED TO REPORT US POSITION TO HIS SUPERIORS. ADMIN
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COUNS INDICATED THAT EMBSSY WOULD TAKE UP THE MATTER WITH
SOVIET MINISTRY OF FOREIGN AFFAIRS AFTER CONSULTING WITH
THE DEPT.

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9. COMMENT: UPDK OFFICIALS WERE UNYIELDING ON DOUBLE
REGISTRATION OF ALL OFFICIALS NOT RESIDING AT THE
AMBASSADOR'S RESIDENCE OR THE EMBASSY. THEY SHOWED
WILLINGNESS TO COMPROMISE ON OTHER QUESTIONS AT ISSUE.
DOROFEYER EXPLAINED THAT SOVIET AUTHORITIES AT THE
BORDER (THE KGB) AND IN THE MINISTRY OF INTERIOR HAD

BEEN CRITICIZING UPDK SEVERELY FOR ITS FAILURE TO ISSUE COMPLIANCE OF FOREIGN DIPLOMATS WITH 1962 REGULATIONS AND COMPELLED UPDK TO INCLUDE THIS REQUIREMENT IN TERMS OF NEW LEASES. WHATEVER THE EXPLANATION, UPDK ACTION IS AN UNSUBTLE AND BACKDOOR ATTEMPT TO DILUTE THE STATUS OF OFFICIAL PERSONNEL UNDER THE VIENNA CONVENTION. THE "DISCOVERY" A 1962 REGULATION FIFTEEN YEARS LATER IN 1977 AND THE INSERTION OF AN ADDITIONAL ALIEN REGISTRATION REQUIREMENT FOR DIPLOMATIC PERSONNEL IN APARTMENT LEASES SMACKS OF SOVIET OFFICIOUSNESS AT ITS WORSE. THE EMBASSY RECOMMENDS THAT WE REJECT THIS PROPOSAL STATING THAT WE ALREADY ARE FULLY COMPLYING WITH ARTICLE 10 OF THE VIENNA CONVENTION BY REGISTERING ALL OFFICIAL AMERICANS WITH THE MINISTRY OF FOREIGN AFFAIRS. END COMMENT. TOON

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